

AARON D. FORD
 Attorney General
 KYLE L. HILL, (Bar No.16094)
 Deputy Attorney General
 State of Nevada
 Office of the Attorney General
 1 State of Nevada Way, Ste. 100
 Las Vegas, Nevada 89119
 (702) 486-0429 (phone)
 (702) 486-3768 (fax)
 Email: khill@ag.nv.gov

Attorneys for Defendants Christopher Herzog, Shawn Fluhrer, Robert Smith, David Craig, Chris Sawin, Daniel Kibbe, Anthony Rose, Daniel Omler, Anthony Cornell, Michael Ralston, Trenton Klein, Francisco Anguiano, Cynthia Purkey, and Joshua Collins

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES EDWARD SCOTT, III,

Plaintiff,

v.

HERZOG, *et al.*,

Defendant.

Case No. 3:22-cv-00564-ART-CLB

**ORDER GRANTING DEFENDANTS'
 MOTION FOR EXTENSION OF TIME
 TO FILE MOTION FOR SUMMARY
 JUDGMENT**

(Second Request)

Defendants, Christopher Herzog, Shawn Fluhrer, Robert Smith, David Craig, Chris Sawin, Daniel Kibbe, Anthony Rose, Daniel Omler, Anthony Cornell, Michael Ralston, Trenton Klein, Francisco Anguiano, Cynthia Purkey, and Joshua Collins, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Kyle L. Hill, Deputy Attorney General, hereby move this Court for an extension of time to file a Motion for Summary Judgment. This is the second request to extend the subject deadline.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL ANALYSIS

This is a *pro se* prisoner 42 U.S.C. § 1983 civil rights claim brought by offender, James Scott (Scott). On April 30, 2024, this Court entered a scheduling order with a discovery deadline of October 28, 2024, and a dispositive motion deadline of 30 days

1 following the discovery deadline, or November 27, 2024. ECF No. 43. On September 23,
2 2024, the parties stipulated to an extension of the discovery deadlines, extending the
3 discovery deadline to December 12, 2024, and the dispositive motion deadline to January
4 13, 2025. ECF Nos. 73 & 74.

5 On January 10, 2025, this Court granted Defendants' first requested extension of
6 the dispositive motion deadline for this case, by 30 days to February 12, 2025. ECF No. 80.

7 On February 5, 2025, the parties met for a status conference in USDC Case No. 3:23-
8 cv-00270-ART-CLB regarding the possibility of having a global settlement negotiation.
9 USDC Case No. 3:23-cv-00270-ART-CLB ECF No. 75. However, the parties were unable to
10 reach an agreement at that time on having a global settlement negotiation and all of Scott's
11 cases are proceeding on the normal litigation track.

12 **II. ARGUMENT**

13 Defense counsel respectfully requests a sixty (60) day extension of time to file
14 Defendants' dispositive motion from the current deadline of February 12, 2025, until
15 Monday, April 14, 2025.¹

16 Defense Counsel has been diligently working on this matter, however, due to the
17 parties inability to reach a decision on having a global settlement negotiation, Defendants
18 request an extension to the current deadline of February 7, 2025.

19 **A. Current Deadlines**

20 Dispositive motion deadline: February 12, 2025

21 Joint pretrial order (if no dispositive motions filed): March 14, 2025

22 **B. Proposed Deadlines**

23 Dispositive motion deadline: April 14, 2025²

24 Joint pretrial order (if no dispositive motions filed): May 14, 2025

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28 ¹ The 60th day falls on a Sunday, therefore the date has been adjusted accordingly.

² The 60th day falls on a Sunday, therefore the date has been adjusted accordingly.

C. Good Cause Supports this Request

Federal Rule of Civil Procedure 16(b) allows parties to request extensions of deadlines set in the Court's scheduling order. Good cause exists as follows for the extension. LR 26-3. Additionally, counsel for Defendants needs additional time due to the parties being unable to agree to have a global settlement negotiation during the status conference held on February 5, 2025, at 2:00 pm, in USDC Case No. 3:23-cv-00270-ART-CLB. Counsel for Defendants believed having this negotiation would have been beneficial for all parties, and anticipated all matters being stayed for this purpose. As a result, counsel prepared for discussing the need for this negotiation in lieu of continuing to prepare the dispositive motion for filing.

Defendants seek an additional sixty (60) days to file the instant dispositive motion in this case, because in addition to this current dispositive motion deadline, Defendants counsel, in addition to other deadlines and other cases requiring attention, counsel currently has dispositive motions due within the next sixty (60) days in the following cases: USDC Case No. 3:23-cv-00263-ART-CLB³; USDC Case No. 3:23-cv-00260-MMD-CLB; USDC Case No. 2:21-cv-00514-CDS-EJY⁴; USDC Case No. 3:23-cv-00264-ART-CLB; USDC Case No. 3:23-cv-00251-MMD-CSD; USDC Case No. 3:23-cv-00254-MMD-CLB; USDC Case No. 3:22-cv-00556-ART-CSD; USDC Case No. 3:23-cv-00269-MMD-CLB; USDC Case No. 3:23-cv-00271-MMD-CSD; and USDC Case No. 3:23-cv-00259-CSD.

Defendants assert that the requisite good cause is present to warrant the requested extension of time. This is the second request to extend the subject deadline.

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³ USDC Case No. 3:23-cv-00263-ART-CLB has a dispositive motion deadline for the same day as the instant matter, where undersigned counsel intends to file a dispositive motion in 263 on the scheduled deadline.

⁴ USDC Case No. 2:21-cv-00564-CDS-EJY has a fully briefed and pending Motion to Dismiss and Motion for Stay of Discovery which could potentially affect the currently scheduled dispositive motion deadline.

1 **III. CONCLUSION**

2 Defendants respectfully request this Court extend the deadline for dispositive
3 motion in this matter. Defendants assert the requisite good cause is present to warrant an
4 extension of time. Therefore, Defendants request additional time, up until **April 14, 2025**,
5 to file dispositive motions in this matter.

6 DATED this 6th day of February, 2025.

7 AARON D. FORD
8 Attorney General

9 By: /s/ Kyle L. Hill
10 KYLE L. HILL, Bar No. 16094
11 Deputy Attorney General
Attorneys for Defendants

12 **ORDER**

13 **IT IS SO ORDERED.**

14
15 **DATED:** February 6, 2025

16 
17 **UNITED STATES MAGISTRATE JUDGE**

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada and that on this 6th day of February, 2025, I electronically filed the foregoing, **DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR SUMMARY JUDGMENT (Second Request)**, via this Court's electronic filing system. Parties that are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, addressed to the following:

James Edward Scott #1207166
3800 NW 63rd Drive
Gainesville, FL 32606



An employee of the
Office of the Attorney General